



2011

OVERVIEW OF CONDUCT AND PERFORMANCE-BASED ACTIONS FOR SUPERVISORS AND MANAGERS

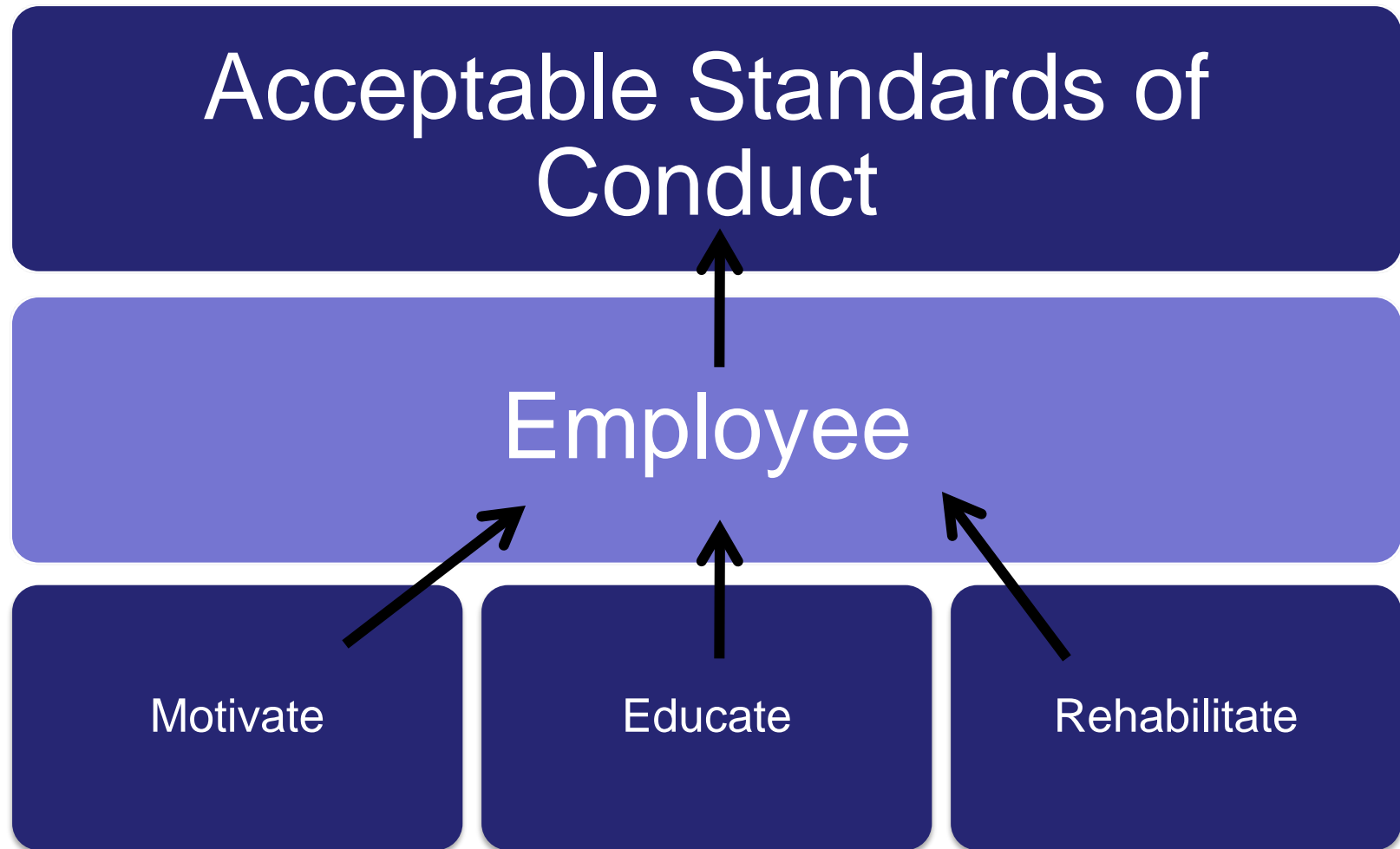
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Definitions

- Due Process
- Efficiency of the Service
- Just Cause
- Progressive Discipline
- Burden of Proof
 - Preponderant Evidence
 - Substantive Evidence

Why Conduct-Based Actions?



Conduct-based Actions

- What factors does management consider?
- What is the intent of the action?
- What form do they take?

Determine the Validity of the Charge

- Do the facts establish the claim?
- Is the employee's behavior/conduct a violation?
- Did the employee know of the rule/regulation or requirement?
- Has the rule been applied consistently?
- Did the behavior/conduct have a negative impact on the employee or others?

Adverse Actions

Non-appealable

Suspension
(14 days or Less)

Statutory Entitlements

An employee is entitled to:

- Advanced written notice with specific reason
- Reasonable time to answer
- Representation
- Written decision

Note: May grieve final action

Adverse Actions

Statutory Entitlements

An employee is entitled to:

- In most instances, at least 30 days advanced written notice
- Reasonable time, but not less than 7 days, to answer
- Representation
- Written decision

Note: May grieve final action

Appealable

- Suspension of more than 14 days, including indefinite suspension
- Reduction in grade/band
- Reduction in pay
- Furlough for 30 days or less
- Removal

Appeal and Grievance Rights

- An employee may grieve an Adverse Action through the NGP or AGS.
- An employee may appeal an Appealable Adverse Action to the MSPB.
- Unless the collective bargaining agreement specifically excludes it, a bargaining unit employee may appeal an Appealable Adverse Action to the MSPB, or may file a grievance through the negotiated grievance procedure, but not both.

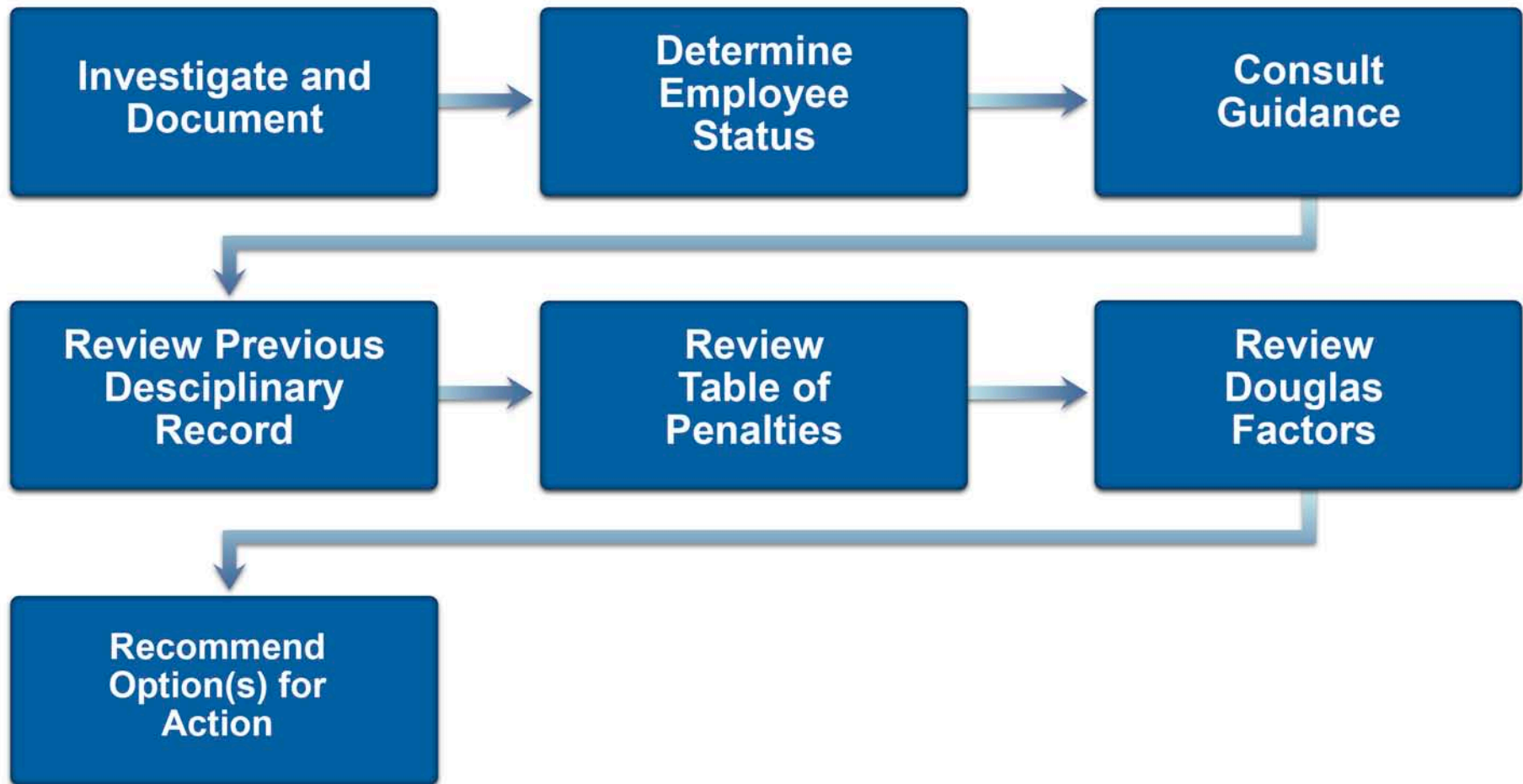
Douglas Factors (1 through 6)

1. What was the nature and seriousness of the offense?
2. What does the employee do and the job level?
3. What is the employee's past disciplinary record?
4. What is the employee's past work record?
5. Has the offense impacted the employee's ability to perform at a satisfactory level?
6. Is the action consistent with similarly situated employees?

Douglas Factors (7 through 12)

7. What is the local disciplinary record for this type of offense (Table of Penalties)?
8. What is the notoriety of the offense?
9. Had the employee been forewarned about the conduct or behavior in question?
10. Is the potential for the employee to be rehabilitated?
11. Are there any mitigating circumstances?
12. What is the effectiveness of the action to deter the behavior or conduct?

Determining Courses of Action



In my work unit, steps are taken to deal with a poor performer who cannot or will not improve.

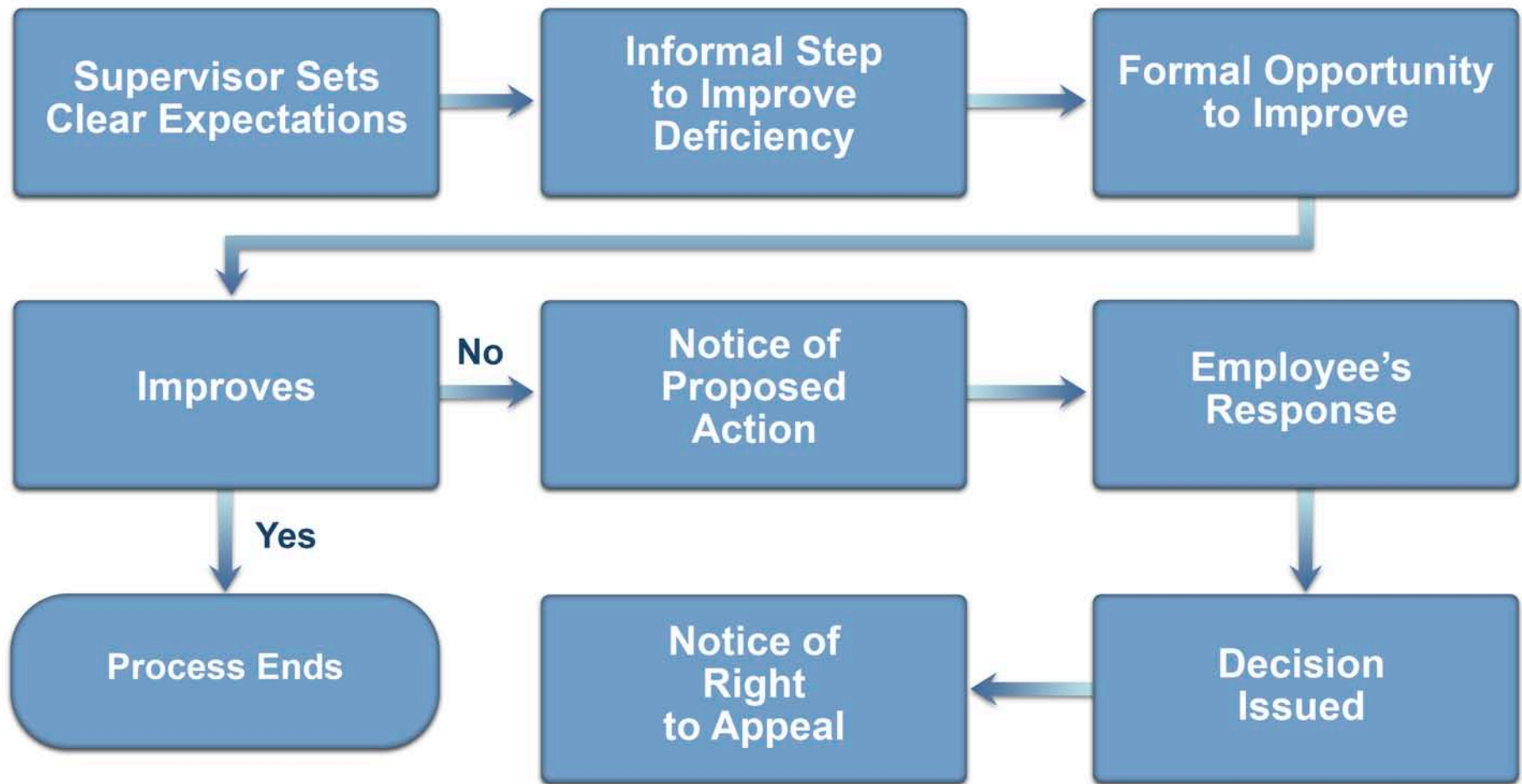


What Employees and Supervisors Think

What are Performance-based Actions?

- Actions taken by management to address:
- Less than acceptable performance
- The Employee Relations Practitioner serves as a guide, leading management through the maze of regulations, case laws and options available.

Chapter 43: Performance-Based Actions



Lesson Review

- Conduct-based actions are taken to promote the efficiency of the service when a employee refuses or fails to comply with a rule, regulation or law within the workplace.
- Determining the course of action is ultimately the manager's responsibility.
- The Employee Relations Practitioner serves as a guide, leading management through the maze of regulations, case laws and options available.

Questions

